

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JASMINE SOLARES, ESTEFANIA  
CORREA RESTREPO, and STEVEN  
REID,

Case No. 2:24-cv-00881-EJY

**ORDER**

Plaintiffs,

v.

AMAZON.COM SERVICES, LLC,

Defendant.

Pending before the Court is the Stipulated Scheduling Order in which the parties do not actually stipulate to a schedule. ECF No. 35. Also pending before the Court are two motions: (1) Defendant's Motion to Dismiss (ECF No. 15); and (2) Plaintiffs' Motion for Circulation of Notice of the Pendency of this Action. ECF No. 17. These motions are fully briefed and waiting for decisions by the Court. The Court reviewed the Motion to Dismiss, but has made no decision regarding the outcome. Nonetheless, if granted, the Motion would resolve the case on a collective/class basis in its entirety. The Court weighs this factor against the time and expense of discovery before conditional certification on a Fair Labor Standards Act collective action noting, further, that no conditional certification process applies to Fed. R. Civ. P. 23 class claims.

Courts have broad discretion to control discovery. *Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 600 (D. Nev. 2011). A pending dispositive motion "is not ordinarily a situation that in and of itself would warrant a stay of discovery." *Turner Broad. Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997) (quotation omitted). Nor does the fact that "discovery may involve some inconvenience and expense" automatically lead to a stay of discovery. *Id.* A stay of discovery may be granted when: (1) a pending motion is potentially dispositive of the case; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a

1 “preliminary peek” at the merits of the potentially dispositive motion to evaluate the likelihood of  
 2 dismissal. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013). The party seeking  
 3 a stay of discovery bears the burden of establishing the stay is warranted. *Kabo Tools Co. v. Porauto*  
 4 *Indus. Co., Ltd.*, Case No. 2:12-cv-01859, 2013 WL 5947138, \*1 (D. Nev. Oct. 31, 2013), *citing*  
 5 *Holiday Sys., Int’l of Nev. v. Vivarelli, Scharwz, and Assocs.*, 2012 U.S. Dist. Lexis 125542, \*5 (D.  
 6 Nev. Sept. 5, 2012).

7 Here, the Court agrees that Defendant’s Motion to Dismiss is potentially dispositive and can  
 8 be decided without discovery. The Court is less certain that the merits will lead to dismissal of all  
 9 class/collective claims. This is not a prequel to the Court’s decision. It is merely recognition of the  
 10 complicated nature of the arguments that have not yet been fully reviewed and vetted. Thus, the  
 11 Court finds the parties may conduct limited discovery pending the outcome of the Motion to Dismiss  
 12 as follows:

- 13 1. Discovery is open for a period of ninety (90) days measured from the date of this  
 14 Order;
- 15 2. The scope of discovery is limited to the named Plaintiffs (this does not include opt  
 16 ins, if any);
- 17 3. Defendant is to produce the named Plaintiffs’ personnel and time card records for the  
 18 claims period;
- 19 4. Defendant is to produce time and attendance policies, if any, applicable to Plaintiffs’  
 20 claims;
- 21 5. Plaintiffs are to produce any documents in their possession, custody or control  
 22 relevant to their individual claims;
- 23 6. Plaintiffs are collectively entitled to propound 10 interrogatories and 10 document  
 24 requests on Defendant related to their claims;
- 25 7. No class data is to be requested and none is required to be produced during this 90  
 26 day discovery period;
- 27 8. Defendant is entitled to propound 10 interrogatories and 10 document requests on  
 28 each Plaintiff regarding their individual claims;

10. Plaintiffs may, at their choosing, take the deposition of their respective supervisors

11. The decision not to conduct discovery will not function as a waiver of any discovery and,

IT IS FURTHER ORDERED that the Stipulated Scheduling Order (ECF No. 35) is DENIED  
t prejudice.

  
ELAYNA J. YOUCHAK  
UNITED STATES MAGISTRATE JUDGE